

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**OMNIMOLD, LLC D/B/A FREMONT PLASTIC MOLDS<sup>1</sup>**

**Employer**

**and**

**Case No. 8-RC-16737**

**INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE  
& AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.<sup>2</sup>

The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

*All full-time and regular part-time production and maintenance employees, including CNC programmers, machinists, benchers, group leaders, designers, maintenance, CNC machine operators, welders, project coordinator, QC coordinator/tech, senior designers, apprentice designer, driver, controls engineer and CNC coordinator employed by the Employer at its facility in Fremont, Ohio, excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.*

The record indicates that there are approximately 57 employees in the unit found appropriate herein.

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<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> The Employer filed a post-hearing brief that has been duly considered. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The labor organization involved claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

## I. Issue

The Petitioner seeks a production and maintenance unit but would exclude CNC programmers, senior designers, designers and designer apprentices based on their asserted lack of a community of interest with other employees. The Employer would include the above-noted classifications on community of interest grounds.

## II. Decision Summary

I find that the CNC programmers, senior designers, designers and designer apprentices should be included in the appropriate unit. I have determined that traditional community-of-interest considerations compel their inclusion in the appropriate unit.

## III. Background

The Employer is a manufacturer of tooling for the plastics industry. It employs fifty-seven employees to produce industrial blow mold tooling used in the production of plastic parts. The Employer performs this work at its facility and office located in Fremont, Ohio.

Martin Cass is the Employer's President. Daryle Damschroder, Vice-President for Sales and Engineering reports to Cass. John Snodgrass, Engineering Manager reports to Damschroder. Damschroder supervises the Design Department which includes a group leader, senior designers, designers and apprentices. He also supervises the Quality Control Department which includes the QC coordinator and technician.

Larry Camp, Plant Manager, reports to President Cass. Randy Christy, CNC Manager, reports to Camp. Christy supervises the CNC Department which includes a group leader, CNC coordinator, CNC programmers and CNC machine operators.

## IV. Facts

Snodgrass, the Engineering Manager, provided most of the testimony concerning the Employer's business operations, as the first of two Employer witnesses. The Petitioner called no witnesses.

The manufacturing process begins when the Employer receives a customer's order. Customers submit mathematical coordinates which establish the product specifications. The designers and CNC programmers input this data into the Employer's computer software and then provide drawings to the CNC operators who tool the product. From there the parts are sent to the machine shop where they are drilled, tapped and assembled. Following assembly, the product is inspected by the quality control department and then shipped to the customer.

All hourly employees, including the designers<sup>3</sup> and programmers utilize the same time clock and lunchroom. The designers and programmers enjoy the same benefits as all other

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<sup>3</sup> Designers, as used in this Decision, include senior designers, designers and the apprentice.

hourly employees including: vacations, healthcare insurance, holidays and 401(k) plan. Testimony concerning wages was provided by Bryan Barshel, Vice-President of Finance and Administration. Wages for the programmers range from \$14.00 per hour to \$19.75 per hour. Designers earn from \$13.50 per hour for the apprentice to \$19.00 for a senior designer with nine years of experience. The wage scale for the other hourly employees starts at \$10.00 for a newly hired machinist to \$20.00 per hour for the controls engineer in the Fixture and Gage Department. The CNC machine operators earn from \$11.00 per hour to \$17.00 for the most senior employee. The machinists' wages range from \$10.00 to \$19.75 per hour. The same employee handbook applies to all hourly employees.

The Employer operates a day shift, night shift and a weekend shift. Designers and CNC programmers work the day shift and weekend shift and are available by telephone whenever the night shift employees have questions.

The designers and CNC programmers have work stations inside an air-conditioned technical center located in the middle of the plant floor. The technical center is sixty feet long and sixty feet wide with doors leading to the shop floor. Fifteen CNC machines occupy half of the plant floor. Other machinery and departments occupy the remainder of the plant space.

Engineering Manager Snodgrass has an office inside the technology center, from which he supervises the designers. Snodgrass spends half of his time in the design office and the other half on the plant floor. Snodgrass's testimony indicates that the CNC operators and machinists visit the technology center on a daily basis as revisions and adjustments are made during the production of a customer's tooling. According to Snodgrass the CNC programmers regularly spend as much as fifty percent of their workday operating the CNC machines. The CNC programmers and designers have identical skill sets according to Snodgrass. Both classifications utilize the same computers and software.

In addition to daily interaction between the CNC operators and the designers and CNC programmers, Snodgrass described other interactions. Specifically, machinists contact the programmers and designers on a daily basis to mark-up the blueprints for corrections and revisions that take place on the shop floor.

Snodgrass testified that all six of the CNC programmers had formerly worked as CNC operators. Also, at least two of the designers had previously worked at other positions in the hourly workforce.

Significantly, the record shows that during the last three years the CNC programmers and designers have been shifted to other departments because of a slowdown in work during the summer months. Snodgrass testified that both the CNC programmers and designers will work as CNC operators and as machinists. The record indicates that these temporary reassignments extend over a three-month-long period.

V. Analysis

The Employer cites **J.C. Penney Co.**, 328 NLRB 766 (1999) in its post-hearing brief. The **J.C. Penney Co.** decision noted that, “The National Labor Relations Act allows a Union to petition for an appropriate unit. This does not necessarily mean that the unit will be the most appropriate or that there might not be another more appropriate. See **National Cash Register Co.**, 166 NLRB 173, 174 (1966), **Dezcon, Inc.**, 245 NLRB 109, 111 (1989).” **J.C. Penney Co.**, **supra** at 766. In adhering to that principle I find, contrary to the arguments of the Petitioner, that the designers and CNC programmers share such a strong community of interest with the employees in the unit found appropriate that their inclusion is required.

When deciding whether a petitioned-for unit is appropriate, the Board considers whether the employees in the unit share a sufficient community of interest. The Board’s criteria for testing the community of interest is set forth in **Kalamazoo Paper Box Corp.**, 136 NLRB 134 (1962). Those criteria are set forth below:

A difference in method of wages or compensation; different hours of work; different employment benefits; separate supervision; the degree of dissimilar qualifications, training and skills; differences in job functions and amount of working time spent away from the employment or plant situs under State and Federal regulations; the infrequency or lack of contact with other employees; lack of integration with the work functions of other employees or interchange with them; and history of bargaining. **Id.** at 137.

I find, after applying the criteria set forth in **Kalamazoo Paper Box Corp.**, that the CNC programmers and designers should be included in the unit found appropriate herein.

The designers and CNC programmers are neither the highest nor lowest paid hourly employees. Individual designers and programmers receive wages similar to other classifications, including machinists and CNC operators. The common wage system shared by the classifications in dispute and the other production and maintenance employees supports their inclusion in the appropriate bargaining unit.

Although the designers and CNC programmers do not work the night shift, they do work the same day shift and weekend shift hours as the other production and maintenance employees. Moreover, the designers and CNC programmers are available for telephone consultations should the need arise. Accordingly, the designers and CNC programmers work substantially the same hours as other included employees, and this fact supports their inclusion in the unit.

Designers and CNC programmers have substantial contact and interchange with unit employees. Every customer’s order is funneled through the technical center by the project managers. After the designers and CNC programmers have entered the necessary data the blueprints and specifications are made available to the CNC machine operators and machinists. The record is replete with examples of feedback from the CNC machine operators and machinists to the designers and CNC programmers as tooling orders are revised and processed. Accordingly, the functions of the designers and CNC programmers are functionally integrated with the overall function of the Employer’s facility: receiving, modeling and manufacturing

tooling pursuant to customers' orders. The degree to which designers and CNC programmers are functionally integrated into the overall manufacturing process is further demonstrated by their summertime reassignments to the CNC machine operator positions and machinist positions.

In the present case, I find that the designers and CNC programmers, as hourly employees, share similar terms and conditions of employment with employees in the production and maintenance departments, including the same work rules and identical fringe benefits. I find, therefore, that the designers and CNC programmers share a community of interest with the employees in the production and maintenance unit and are appropriately included in that unit. **Keller Crescent Co., 326 NLRB 1158 (1998).**

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW.**

### **LIST OF VOTERS**

In order to ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. **Excelsior Underwear Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Co., 394 U.S. 759 (1969).** Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this decision. **North Macon Health Care Facility, 315 NLRB 359 (1994).** The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington, by August 12, 2005.

Dated at Cleveland, Ohio this 29th day of July, 2005.

/s/ [Frederick J. Calatrello]

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8